

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD R. ZILGME,

Plaintiff,

v.

Civil Action No. _____

ROCKY MOUNTAIN RECOVERY, INC.

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This is an action for actual and statutory damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices..

II. JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337.

III. PARTIES

3. Plaintiff Richard R. Zilgme is a natural person residing in Buffalo, New York.
4. Defendant Rocky Mountain Recovery, Inc. (hereinafter referred to as "Rocky Mountain") is a foreign corporation organized under the laws of the State of Wyoming.
5. That upon information and belief, Rocky Mountain regularly attempt to collect debts alleged to be due another.

IV. FACTUAL ALLEGATIONS

6. That the Defendant was employed by American Truckers Legal to collect a debt allegedly owed to them by Plaintiff.
7. That on or about October 19, 2004, Defendants mailed a letter to Plaintiff, which Plaintiff received and read, which demanded payment of the American Truckers Legal debt and made the following statements:

- A. "Previous efforts to collect this past due account have been disregarded, therefore we have been authorized to take any lawful action necessary to enforce collection."
 - B. "Failure to respond by October 26, 2004 may result in the initiation of asset information research, which may be used by management for the purpose of suit evaluation. This inquiry may include verification of your non-exempt property, funds and/or wages, where applicable, as provided by law."
 - C. "Should you choose to avoid the consequences of the non-payment, remit the balance to our office without further delay."
8. That upon receiving and reading the letters referred to in paragraph 7A through 7C of this complaint, Plaintiff became nervous, upset, and suffered from emotional distress.

V. CAUSE OF ACTION

9. Plaintiff repeats and realleges and incorporates by reference paragraphs one through eight above.
10. Defendant violated multiple provisions of the FDCPA. Specifically, the statements contained in Defendant's letter to Plaintiff as described in paragraph 7 of this complaint would lead an unsophisticated consumer to believe the following:
- A. That Rocky Mountain had received authorization from American Truckers Legal to commence litigation to collect the subject debt.
 - B. That Rocky Mountain intended to, or there was a reasonable possibility that Rocky Mountain would commence litigation against Plaintiff if he did not pay the subject debt or make satisfactory arrangements to pay said debt without further delay.
 - C. That Rocky Mountain intended to commence litigation against Plaintiff to collect the subject debt, obtain a money judgment against Plaintiff, and intended to use legal process to enforce said judgment from the income or property of Plaintiff.
11. That all of the representations made by Defendant's detailed in paragraphs 10A through 10C of this complaint were false, and Defendant knew said statements were false.
12. As a result of the Defendant's violations of the FDCPA, the Plaintiff suffered actual damages, including emotional distress, and is also entitled to an award of statutory damages, costs and attorneys' fees.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against the Defendants for:

- (a) actual damages;
- (b) statutory damages pursuant to 15 U.S.C. § 1692k.

(c) Costs, disbursements and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k.

(d) For such other and further relief as may be just and proper.

A JURY TRIAL IS DEMANDED.

Dated: September 26, 2005

s/Kenneth R. Hiller, Esq.
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